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# AMERICAN SAFETY CASUALTY INSURANCE COMPANY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

12 EAST 12 ASSOCIATES, LP,

BOND NO. **ASB 523247**

Plaintiff,

-against-

11 Civ. 2969 (DLC)(AJP)

WHISTLER TREE, INC. dba GOTHAM 50  
BAR AND RESTAURANT and JOHN DOES  
I to X,

UNDERTAKING ON TEMPORARY  
RESTRAINING ORDER

Defendants.

WHEREAS, the above named Plaintiff, 12 EAST 12 ASSOCIATES, LP, has applied for a TEMPORARY RESTRAINING ORDER in the above entitled action, restraining the Defendants, WHISTLER TREE, INC. dba GOTHAM 50 BAR AND RESTAURANT and JOHN DOES I to X, from doing things as more fully set forth in the order granted by the Hon. Denise L. Cote on May 6, 2011 under and by virtue of the Federal Rules of Civil Procedure upon the posting of an undertaking in the sum of TWENTY FIVE THOUSAND AND 00/100 ( \$25,000.00 ) DOLLARS.

Now, therefore, **AMERICAN SAFETY CASUALTY INSURANCE COMPANY**, an Oklahoma corporation, duly authorized to transact business in New York with a principal place of business for the State of New York at 106 Apple Street, Suite #101B, Tinton Falls, NJ 07724, as Surety, does hereby undertake that the Plaintiff, 12 EAST 12 ASSOCIATES, LP, will pay to the Defendants, WHISTLER TREE, INC. dba GOTHAM 50 BAR AND RESTAURANT and JOHN DOES I to X, so enjoined, such damages and costs not exceeding the sum of TWENTY FIVE THOUSAND AND NO/100 ( \$25,000.00 ) DOLLARS as they may sustain by reason of the Temporary Restraining Order, if the Court shall finally decide that the Plaintiff was not entitled thereto; such damages and costs to be ascertained by a reference, or otherwise as the Court shall direct.

Dated: May 12, 2011  
New York, New York

**AMERICAN SAFETY CASUALTY INSURANCE COMPANY**

WILLIAM J. PEDERSEN

Attorney-In-Fact

UNIFORM FORM CERTIFICATE OF ACKNOWLEDGEMENT

State of New York )

ss:

County of New York )

On the 12<sup>th</sup> day of May in the year 2012, before me, the undersigned personally appeared **WILLIAM J. PEDERSEN**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity. And that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

**MICHAEL KEATING**  
Notary Public, State of New York  
Reg. No. 01-KE-4851559  
Qualified in New York County  
Commission Expires February 3, 2014

Approved 5/17/11  
**RUBY J. KRAJICK**  
CLERK OF COURT

BY

Deputy Clerk



NUMBER  
ASB-523247

## POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that American Safety Casualty Insurance Company has made, constituted and appointed, and by these presents does make, constitute and appoints

WILLIAM J. PEDERSEN & CAROLYN OFFENHARTZ OF NEW YORK

its true and lawful attorney-in-fact, for it and its name, place, and stead to execute on behalf of the said Company, as surety, bonds, undertaking and contracts of suretyship to be given to

### ALL OBLIGEEES

provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

**\*\*\*THREE MILLION\*\*\*(\$3,000,000.00) DOLLARS\*\*\***

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company of the 6<sup>th</sup> day of August, 2009.

**RESOLVED**, that the President in conjunction with the Secretary or any Assistant Secretary may appoint attorneys-in-fact or agents with authority as defined or limited in the instrument evidencing the appointment in each case, for and on behalf of the Company, to execute and deliver and affix the seal of the Company to bonds, undertakings, recognizances, and suretyship obligations of all kinds; and said officers may remove any such attorney-in-fact or agent and revoke any power of attorney previously granted to such persons.

**RESOLVED FURTHER**, that any bond, undertaking, recognizance, or suretyship obligation shall be valid and binding upon the company when:

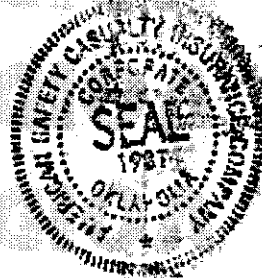
(i) when signed by the President or any Vice-President and attested and sealed (if a seal is required) by any Secretary or Assistant Secretary or (ii) when signed by the President or any Vice-President or Secretary or Assistant Secretary, and counter-signed and sealed (if a seal is required) by a duly authorized attorney-in-fact or agent; or (iii) when duly executed and sealed (if a seal is required) by one or more attorney-in-fact or agents pursuant to and within the limits of the authority evidenced by the power of attorney issued by the Company to such person or persons.


**RESOLVED FURTHER**, that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any power of attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company; and such signature and seal when so used shall have the same force and effects as though manually affixed.

**IN WITNESS WHEREOF**, American Safety Casualty Insurance Company has caused its official seal to be hereunto affixed, and these presents to be signed by its President and attested by its Secretary this 6<sup>th</sup> day of August, 2009

Attest:

  
Ambuj Jain



  
Joseph D. Scollo, Jr.

STATE OF GEORGIA  
COUNTY OF COBB

On this 6<sup>th</sup> day of August, 2009, before me personally came Joseph D. Scollo, Jr., to me known, who, being by me duly sworn, did depose and say that he is the President of American Safety Casualty Insurance Company, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

JAMI BAILEY  
Notary Public, Hall Co., GA  
My Commission Expires Aug. 13, 2012

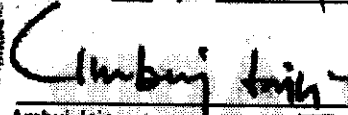
  
Jami Bailey, Notary Public

I, the undersigned, Secretary of American Safety Casualty Insurance Company, an Oklahoma corporation, DO HEREBY CERTIFY, that the foregoing and attached Power of Attorney remains in full force and has not been revoked; and furthermore that the Resolution of the Board of Directors, set forth in the said Power of Attorney, is now in force.

Signed and sealed in the City of Atlanta, in the State of Georgia

Dated this 12<sup>TH</sup> day of MAY 2011



  
Ambuj Jain



American Safety Casualty  
Insurance Company  
100 Galleria Parkway SE  
Suite 700  
Atlanta, GA 30339

Toll Free: 800.388.3647  
Tel: 770.916.1908  
Fax: 770.955.8339

www.amsafety.com

American Safety Casualty Insurance Company

Statement of December 31, 2010

Admitted Assets

Bonds	\$89,117,575
Stocks	55,414,351
Cash	1,434,388
Short-term investments	1,377,783
Investment income due and accrued	934,928
Agents and premium balances	24,521,938
Reinsurance recoverable	7,465,453
Current federal and foreign income tax	814,229
Net deferred tax asset	2,322,358
Receivable from affiliates	2,369,931
Other admitted assets	<u>1,420,649</u>

Total 187,193,563

Liabilities, Capital and Surplus

Unpaid losses and loss expenses	\$59,486,098
Reinsurance payable	3,721,934
Reserve for underwriting expenses	818,083
Reserve for unearned premiums	19,022,473
Ceded reinsurance premiums payable	13,979,778
Provision for reinsurance	1,594,762
Payable to affiliates	2,671,820
Other liabilities	<u>6,963,235</u>
Total Liabilities	108,056,161
Capital Stock	2,000,000
Surplus notes	2,500,000
Special surplus funds	47,478,193
Unassigned funds	<u>27,159,209</u>
Policy holder surplus	<u>79,137,402</u>

Total \$187,193,563

Securities have been valued on the basis permitted by the National Association of Insurance Commissioners

STATE OF GEORGIA

COUNTY OF COBB

Ambuj Kumar Jain, Secretary and Joseph D. Scollo, President, being duly sworn each himself deposes and says that they are the above described officers of the American Safety Casualty Insurance Company, Oklahoma, that said Company is a corporation duly organized existing and engaged in business as a Surety by virtue of laws of the State of Oklahoma and has duly complied with all the requirements of said state applicable to said Company and is duly qualified to act as Surety under such laws; that said Company has also complied with and is duly qualified to act as Surety under Public Law 97-258 enacted September 13, 1982 (96 STAT. 1047 as amended: 31 U.S.C. 9304-9308); that to the best of my knowledge and belief the above statement is a full, true and correct Statement of Assets and Liabilities of the said Company as of December 31, 2010.

Subscribed and sworn to before me

This 21 day of March, 2011

Secretary

President

In California d/b/a  
ASIG Insurance Services



ASI  
NYSE